

Hypothetical Communiqué on International Fisheries Governance by the L20 Leaders

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WWF-International
Victoria, Canada. October 2006

Statement of intent

We the L20 leaders recognise that the oceans are in a crisis and are prepared to take concrete steps that will benefit all the world's coastal states, maritime industries and dependent communities that rely on healthy oceans and the natural resources they sustain. We will protect the biodiversity upon which we all ultimately depend. In doing so, we will aim to reduce poverty, safeguard livelihoods, defuse tensions leading to conflict, and tackle sources of pollution - thereby providing a sustainable source of high quality food for an ever-growing global population. The necessary solutions are technically possible and readily available, so we will act now to use our influence and to lead by example to effect a 'sea change' in the way the world's oceans are managed.

A case for action

We recognise that a window of opportunity is opening up where prudent leadership can lead to a new global consensus on better management of the world's oceans. In a fast changing world in which issues such as better national security, greater food security, fairer trade, and poverty reduction are important goals, the need to ensure adequate fisheries governance is critical to making progress on all four issues.

There is a sense that customary fisheries management is failing the world community as stock after stock is over-exploited and then collapses. This is particularly pronounced where coastal communities are concerned, and especially in developing countries, whose livelihoods depend on sustaining such resources. As leaders of our countries, we have a responsibility to ensure this destructive trend is reversed.

In supporting change, we see that there is a dawning realisation that the deep seas are not a biological desert. They contain the most amazing cornucopia of life. The benthos, especially sensitive communities associated with bottom structures such as seamounts and hydrothermal vents, need interim protection from destructive fishing practices like bottom trawling. Protection is needed while the world community implements the management solutions available.

There is a growing sense of guilt among developed nations that the growing scourge of IUU fishing is largely driven by a lack of responsibility by certain nations in controlling their own citizens. Similarly, there is a growing awareness that the traditional 'freedom of the seas' has become a threat to the security of States and to the proper management of maritime activities.

We conclude that the adoption and implementation of good governance arrangements is THE key issue - without a proper management framework in place, the best management measures simply cannot be introduced let alone implemented, especially on the high seas.



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To usher in 2006 as the beginning of a 'Decade of Implementation', as agreed at the United Nations Food and Agriculture Organisation (FAO) Committee on Fisheries meeting earlier this year, we will promptly implement the following 11 point plan of pragmatic yet politically feasible activities:

An eleven point plan for the L20

1. Oceans governance reform, globally and regionally. In order to achieve our aim of Integrated Oceans Management governments need to agree on the establishment of a network of regional oceans management bodies under UNCLOS with comprehensive mandates and geographical coverage. They would be subject to adequate global oversight by governments and be accountable for the global commitments of those governments. We choose to work on the adaptation of existing regional arrangements rather than developing yet more new structures. We acknowledge that, to be generally acceptable to most governments, regulatory control is best exercised at the regional level, for good environmental and political reasons, irrespective of what global oversight and accountability mechanisms might be developed.

While the global accountability element may be new, many of us are already struggling with ad hoc RFMO reform, even if not as part of a specific change strategy. We need to develop such a specific and coherent strategy for regional reform with global oversight. All 20 of our States will come to the first meeting of the UN General Assembly (UNGA's) Ad-hoc, Open-ended, Informal Working-Group in February 2006 with firm proposals on how to pursue such reform with the urgency it deserves.

Regional fisheries bodies, especially RFMOs, have been falling well short of compliance with legal obligations of governments - let alone community expectations. Many RFMOs are actually little more than single stock management arrangements, such as the five tuna commissions. They simply do not constitute the regional management bodies that governments envisaged when negotiating the UNCLOS Implementing Agreement on Straddling and Highly Migratory Fish Stocks (the so-called Fish Stock Agreement or FSA). Many governments have yet to ratify the FSA, and even fewer give effect to its principles and provisions in their participation in the regional fisheries bodies of which they are members. We commit ourselves to talking to other governments to ensure that we are all full parties to existing, relevant international agreements and to urgently reviewing the roles and responsibilities of RFMOs and other regional arrangements.

Based on the outcomes of this review, we commit ourselves to establishing real regional oceans management bodies – ROMOs. To give effect to our commitments to ecosystem-based management (EBM), integrated oceans management must be an explicit objective of regional agreements. Good science and adherence to the precautionary approach will deliver genuinely sustainable management of living marine resources. We accept that, in going down this reform path, we will be bringing about an historic end to high seas freedoms for unfettered exploiters of marine living resources, while continuing to protect the customary rights of innocent passage and those acting in a responsible and sustainable way.

We note that regional arrangements for the Mediterranean and for the Southern Ocean are delivering far better results than those aimed at single stock management. We will ensure that they all have adequate competency to manage all relevant issues, broad geographical coverage, and that all accept global accountability in delivering on the commitments of governments in international agreements. If such bodies stubbornly refuse to reform or, more accurately, we governments cannot marshal the political will to reform those bodies of which we are members, the wider world community will be well justified in calling for existing arrangements to be swept aside in far more radical and far-reaching reform. Continuing to excuse predictable failure under existing arrangements is no longer an option.



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We confirm that good oceans management is best organised and implemented at the regional level, where the choice of regional boundaries is driven by a mix of ecological factors and political realities. Such regions would include Exclusive Economic Zones (EEZs) as well as high seas areas. While the rights and responsibilities of coastal states need to be fully recognised and respected, we accept that co-ordinated, cross-boundary management is needed for effective results where dynamic and mobile marine systems and species are concerned. CCAMLR and the new Western Central Pacific tuna commission include EEZs. In effect so does the Mediterranean insofar as coastal states have, to date, refrained from declaring EEZs in deference to the requirements of good regional management. The ability to internally resolve interests of both coastal and fishing states within both EEZs and on the high seas is a critical sign of a healthy regional arrangement.

To function as good regional management bodies, they must also be accountable to the international community of governments in delivering regional implementation of relevant multilateral agreements (such as UNCLOS, Fish Stock Agreement, CBD, etc.). Currently, regional bodies are answerable only to themselves and this is simply an unacceptable governance arrangement. We accept that governments need to identify or establish an international body to which these regional bodies are to be accountable, such as a new Global Oceans Commission.

2. *Freezing the Ecological Footprint - enough is enough.* In seeking to improve conservation and management of the world's oceans, we accept that an essential first step is to stop activities causing irrecoverable harm. We have found the concept of defining the ecological footprint of activities, industries and countries to be a useful reminder of the extent to which growing trade and globalisation spreads the impacts of our citizens' consumption far beyond the borders of our countries. We will adopt the concept of 'freezing the ecological footprint' to describe our determination to ensure that resource consumption no longer comes at the expense of destruction of ecological communities, inequitable resource allocation and degradation of the environment.

In the marine context this would include: confining destructive fishing practices, such as bottom trawling, to areas that have already been degraded by such activities; only allowing exploitation of targeted fish stocks on the basis of fair allocation of catches based on TACs set with adequate scientific justification and suitably precautionary discounting for uncertainty and variability; and the introduction of, and compliance with, measures to ensure bycatch and incidental mortality of non-target species do not threaten populations and do allow threatened species to recover. Consistent with the precautionary principle, the onus of proof that the environment and resources are not being degraded lies with those exploiting or managing those resources.

3. *Seafood Choices - empowering citizens as consumers.* Consistent with the ecological footprint concept, we will encourage our citizens, as consumers, to be informed about where their food comes from and to participate in certification, accreditation and information schemes that allow them to express their desire to minimise the impacts of their personal consumption habits. We will encourage our fishing, processing and retailing industries to contribute to and participate in such schemes, an example of which is the Marine Stewardship Council (MSC). In promoting greater adherence to free and fair trade around the world, we accept and endorse the rights and responsibilities of our citizens, as retail consumers of seafood products, to make informed choices that influence the behaviour of fishers, traders and processors servicing contestable markets.

In particular, we recognise that consumer sentiment, expressed through a transparent production chain, can complement the regulatory efforts of governments to ensure effective control of fishing activities, especially in remote high seas areas and in the face of IUU fishing activity.



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Conservation and management of important migratory fish stocks, like tuna, and deep sea stocks, such as orange roughy and toothfish, where the resources of governments are stretched to the limit can be improved by such complementary action by our citizens. Similarly, where stocks are so badly depleted as to warrant listing on CITES appendices, such consumer arrangements can help governments to secure and implement such listings. We welcome the work being done within FAO to develop technical guidelines for consumer choice schemes and will ensure that it fully supports and encourages such participation by our citizens.

4. *Overcapacity - too many boats chasing too few fish.* While this problem is well recognized, it has been inadequately addressed by governments - and the high seas are in danger of becoming the principal victim of such ongoing failure. We commit ourselves to the immediate establishment of a well-funded global initiative aimed at scrapping excess fishing capacity. We accept that overcapacity in the deep sea fishing industry is an important driver of over-exploitation of fisheries and the rise of IUU fishing, especially on the high seas. We are particularly pleased to hear that such a scrapping scheme would be welcomed by owners and operators of deep sea fishing vessels.

We recognise that, in encouraging technological change (by way of bigger boats and engines, better fishing gear, better electronics, etc.) and in driving improvements in conservation and sustainable management, governments are responsible for encouraging overcapacity. Likewise, we accept that it is no longer acceptable or responsible for governments to allow or encourage such overcapacity to be redeployed to other fisheries. It is therefore inescapable that responsible governments, in encouraging ongoing innovation, efficiency and productivity in the fishing industry, have a consequent obligation to ensure that the resultant surplus fishing capacity is permanently removed, and that harmful subsidies that are the prime driver of such overcapacity are phased out forthwith.

5. *IUU fishing.* We recognise that the high seas and EEZs would greatly benefit if Illegal, Unregulated and Unreported (IUU) fishing were eliminated. We are aware that the OECD-hosted, Ministerially-led High Seas Task Force on IUU Fishing is formulating its final report covering this area, due in early 2006. We commit to acting upon its recommendations, and encouraging other governments to do likewise.

We accept that the scourge of IUU fishing is largely driven by the irresponsible behaviour of citizens of developed countries hiding behind business secrecy, free of domestic control at home and exploiting poor governance arrangements abroad. We acknowledge that the 'flag of convenience' (FoC) system allows irresponsible fishers to flout and undermine conservation measures for greedy and illegal purposes and that the time has now come to prevent deep sea fishers from using the 'flag of convenience system' to escape control. We also accept that mere adoption of the FAO Compliance Agreement has done little to improve the situation and that we must take responsibility for ensuring that the beneficial owners of deep sea fishing vessels can no longer hide their identities, shirk their responsibilities or avoid penalty for the illegal activities they sanction. Similarly L20 States will encourage FoC to assume the responsibility for their citizens and for companies operating on their registers.

6. *Monitoring, Control and Surveillance* (MCS) of fishing vessels, especially of deep sea fishing vessels operating in distant waters, needs to improve. The need for better MCS has grown



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in parallel with awareness of the serious threat to good management and future fishing opportunities posed by the rise in IUU fishing. We acknowledge that current government responses remain inadequate. We hereby commit ourselves to a global capacity building programme, involving a series of regional initiatives, to specifically address MCS gaps. In particular, the existing voluntary network of MCS agencies of like-minded countries needs institutionalising, financing and expanding.

Of critical importance in this context is the need for improved regional cooperation in MCS. We will ensure that developed nations provide urgent and sustained assistance to developing coastal states to allow them to improve the management of their EEZs, especially in the areas of MCS. This is not only a good thing to do in its own right but is also an essential precursor to effective participation by coastal developing states in the conservation and management of adjacent high seas areas through participation in regional oceans management organisations.

As well as better management of vessels at sea, MCS also needs to be extended to include better control of ports, markets and nationals (both companies and citizens). We recognise that all governments have an obligation to immediately review their existing regulatory and administrative arrangements to ensure the necessary improvements can be and are made.

7. *Marine protected areas* – the growing demand for better conservation of marine biodiversity through MPAs and other arrangements is recognised as a key driver for change. In accepting the case for MPAs in high seas areas, as well as within EEZs, we recognise that despite commitments at The World Summit on Sustainable Development (WSSD) and the Convention on Biodiversity (CBD) there is a lack of authority and engagement on the part of governments, regional bodies and international organisations to designate MPAs, let alone to effectively manage relevant maritime activities. This is proving a critical driver impeding improvements in high seas management.

We will be looking to the CBD as the appropriate forum for marshalling existing knowledge and science to establish the case for biodiversity conservation, including MPA establishment. We will also look to coastal states and other bodies like the IMO, FAO and ISA at the global level, and relevant regional bodies (including RFMOs) that have relevant mandates and responsibilities, to control maritime activities sufficient to deliver effective management of MPAs on the high seas outside of national jurisdiction as well as within EEZs.

8. *Engaging with Asia:* We note that, in recent years, the economies of Asia, especially the larger economies of East Asia, have developed as catchers and consumers of fish, particularly on and from the high seas. Inevitably, these trends will continue and there is thus a growing need to ensure that any agendas for change include these countries and take account of their aspirations.

9. *Engaging with Industry:* Critical to success in improving oceans management, especially on the high seas, will be our ability to build partnerships not only between governments but also with civil society and with the fishing industry, including those that service it.

We note with interest the success of such cooperation in combating IUU fishing in the Southern Ocean and are keen to explore and encourage development of such cooperative relationships in all regions. Such a large and complex endeavour as seeking to improve fisheries governance can



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clearly benefit from, and indeed requires, such cooperation between agencies of government, fishing companies and environmental NGOs.

10. *Fair and Equitable access:* - In seeking to improve conservation and management of high seas fisheries, we recognise that establishing and applying fairness and equity principles in developing and applying rules on access to living marine resources within regional management arrangements is a critical issue. While the formal CBD obligations may not formally apply to the areas beyond national jurisdiction, the principles do apply to governments in everything we do – including our involvement in control of maritime activities on the high seas. We recognise that there are limits to the extent to which prior involvement, and current technological capability can be used to determine future access to high seas fish resources. We are committed to the prudent development of precautionary management arrangements that are fair to developing countries, respect the interests and obligations of coastal states, maintain the livelihoods of coastal communities and permit responsible new entrants.

11. *Ensuring responsibility.* Most importantly of all, we accept the need for governments to take clear and decisive action against any of those among us who do not take timely and adequate steps to accept and meet their obligations as signatories – or potential signatories - to relevant international agreements. In particular, we are determined to stamp out the use of ‘flag of convenience’ states by deep sea fishers. We accept that progressive states, committed to constructive change, need to agree on a package of measures that we are prepared to take to discriminate against FoC states and against beneficial owners of fishing vessels engaged in IUU fishing. Mindful of our obligations under international law to avoid discriminatory measures, we accept that such a package of measures needs to be obviously justified, generally agreed and within the means of any genuine flag state to comply with.

As governments, we commit ourselves to taking a 'nowhere to hide' approach to IUU fishers - fishing vessels, reefers, ports, processors markets, owners, financiers, insurers, rogue states. IUU fishing is just another manifestation of the same transboundary/high profit activity as the drug trade, the arms trade, and people trafficking. As such it deserves to be included in governments' attempts to expose, contain and eliminate such antisocial activities.

Conclusion

In conclusion, L20 governments believe that the adoption of such a proactive attitude against those responsible for IUU fishing, coupled with the establishment of global oversight of a new generation of regional oceans management bodies, can deliver effective conservation and management of the world's marine living resources. We hereby commit ourselves to a decade of action to bring about these changes which we deem necessary to achieve effective, integrated management of the world's oceans.